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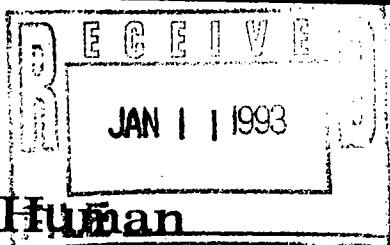
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APPENDIX 1. SCIENTIFIC NAMES OF BIRDS NOT APPEARING IN THE TEXT

Pied-billed grebe, <i>Podilymbus podiceps</i>	Greater yellowlegs, <i>Tringa melanoleuca</i>
Western grebe, <i>Aechmophorus occidentalis</i>	Lesser yellowlegs, <i>Tringa flavipes</i>
American bittern, <i>Botaurus lentiginosa</i>	Solitary sandpiper, <i>Tringa solitaria</i>
Great egret, <i>Casmerodius albus</i>	Willet, <i>Cataptrophorus semipalmatus</i>
Snowy egret, <i>Egretta thula</i>	Spotted sandpiper, <i>Actitis macularia</i>
Green-winged teal, <i>Anas crecca</i>	Whimbrel, <i>Numenius phaeopus</i>
Blue-winged teal, <i>Anas discors</i>	Marbled godwit, <i>Limosa fedoa</i>
Northern shoveler, <i>Anas clypeata</i>	Sanderling, <i>Calidris alba</i>
American wigeon, <i>Anas americana</i>	Western sandpiper, <i>Calidris mauri</i>
Canvasback, <i>Aythya valisneria</i>	Least sandpiper, <i>Calidris minutilla</i>
Ring-necked duck, <i>Aythya collaris</i>	Dunlin, <i>Calidris alpina</i>
Turkey vulture, <i>Cathartes aura</i>	Ruff, <i>Philomachus pugnax</i>
White-tailed kite, <i>Elanus caeruleus</i>	Dowitcher, <i>Limnodromus</i> spp.
Red-shouldered hawk, <i>Buteo lineatus</i>	Common snipe, <i>Gallinago gallinago</i>
Red-tailed hawk, <i>Buteo jamaicensis</i>	Red-necked phalarope, <i>Phalaropus lobatus</i>
Rough-legged hawk, <i>Buteo lagopus</i>	Ring-billed gull, <i>Larus delawarensis</i>
American kestrel, <i>Falco sparverius</i>	California gull, <i>Larus californicus</i>
Ring-necked pheasant, <i>Phasianus colchicus</i>	Mourning dove, <i>Zenaida macroura</i>
California quail, <i>Callipepla californica</i>	Great-horned owl, <i>Bubo virginianus</i>
Coot, <i>Fulica americana</i>	European starling, <i>Sturnus vulgaris</i>
Lesser sandhill, <i>Grus canadensis</i>	Red-winged blackbird, <i>Agelaius phoeniceus</i>
Black-bellied plover, <i>Pluvialis squatarola</i>	Yellow-headed blackbird, <i>Xanthocephalus xanthocephalus</i>
Semi-palmated plover, <i>Charadrius semipalmatus</i>	Brewer's blackbird, <i>Euphagus cyanocephalus</i>

EXHIBIT 12

**Korschgen, C.E. and Dahlgren, R.B., U.S. Fish and Wildlife
Service, Fish and Wildlife Leaflet 13.2.15, "Human
Disturbances of Waterfowl: Causes, Effects, and
Management**



13.2.15. Human Disturbances of Waterfowl: Causes, Effects, and Management

<input type="checkbox"/>	GWD	_____
<input type="checkbox"/>	GRCD	_____
<input type="checkbox"/>	Don	_____
<input type="checkbox"/>	Tim	_____
<input type="checkbox"/>	Sam	_____
<input type="checkbox"/>	Scott	_____
<input type="checkbox"/>	Melissa	_____
<input type="checkbox"/>	Veronica	_____
<input type="checkbox"/>		_____

Carl E. Korschgen
U.S. Fish and Wildlife Service
Northern Prairie Wildlife Research Center
La Crosse Field Station
P.O. Box 2226
La Crosse, WI 54602

and

Robert B. Dahlgren
U.S. Fish and Wildlife Service
Office of Refuge Biology
P.O. Box 2484
La Crosse, WI 54602

Human disturbances of waterfowl can be intentional or unintentional. They may result from overt or directed activities or may be ancillary to activities not initially thought to be of concern to birds. Some of these disturbances are manifested by alertness, fright (obvious or inapparent), flight, swimming, disablement, or death. Therefore, persons responsible for waterfowl management areas should be aware of the problems from human disturbance and should design management and facilities that increase public appreciation of waterfowl.

In the last 20 years, the intensity of water-based recreation increased drastically, especially on inland waters. Waterfowl are wary, seeking refuge from all forms of disturbance, particularly those associated with loud noise and



rapid movement. Occasionally, the problem of human disturbance of waterfowl resulted in formal litigation. In Nevada, for example, the Refuge Recreation Act of 1962 was affirmed to permit recreational use only when it did not interfere with the primary purpose for which the Ruby Lake National Wildlife Refuge was established. Compatibility of an activity is based on site-specific effects on the major purposes for which a refuge was established. In a recent survey of harmful and incompatible uses on national wildlife refuges, 42 use categories were determined that could be potential disturbances of waterfowl.

Activities That Cause Disturbances

Given the frequency of human disturbance of waterfowl, information from research about this issue is scant. A review of several thousand journal articles and books revealed that most disturbances are created by water users (chiefly boaters, anglers, hunters) and aircraft (Table). Human activities cause different degrees of disturbance to waterfowl and may be grouped into four main categories. Listed in order of decreasing disturbance these categories are

1. rapid overwater movement and loud noise (power-boating, water skiing, aircraft);
2. overwater movement with little noise (sailing, wind surfing, rowing, canoeing);

caused nest desertion rates as high as 40%. Canada geese nesting in southeastern Missouri were very sensitive to persons fishing in their nesting areas. Establishing areas closed to fishing during the nesting period decreased nest desertions.

Reduced Hatching Success

Human disturbance has three basic effects on nesting success, that is:

1. exposure of eggs to heat or cold by flushing of hens may kill the embryos;
2. predation of eggs may increase when hens are flushed from nests; and
3. predation of eggs and hens may increase at nests when humans create trails or leave markers by which predators find nests.

When nests of cackling Canada geese were checked several times before hatch, twice the number of eggs were lost to predators. Where human activities disturbed Canada geese or common eiders that were nesting among black-backed gulls, herring gulls, or parasitic jaegers on islands or tundra colonies, the gulls and jaegers often quickly located and consumed eggs in waterfowl nests unoccupied because of human disturbance.

Decreased Duckling Survival

Disturbance by humans during the brood rearing season can break up and scatter broods or frighten parents into running ahead of their ducklings or goslings. Young waterfowl briefly separated from their mother are vulnerable to predators and susceptible to death from severe weather or lack of experience in obtaining food. Disturbances drastically increase kills by gulls of common eider ducklings. For example, the number of eider ducklings killed by gulls in Sweden was 200-300 times greater when broods were disturbed by boats. In northern Maine, American black duck and ring-necked duck broods averaged two fewer ducklings because of mortality from disturbance by motorboats. Human disturbance caused a higher than normal mortality rate of trumpeter swan cygnets in a study area in Alaska. Human disturbance can be quite brutal and direct; water skiers and power boaters have run over white-winged scoter hens and broods, and some boaters have used paddles to kill ducklings.

Effects on Nonbreeding Waterfowl

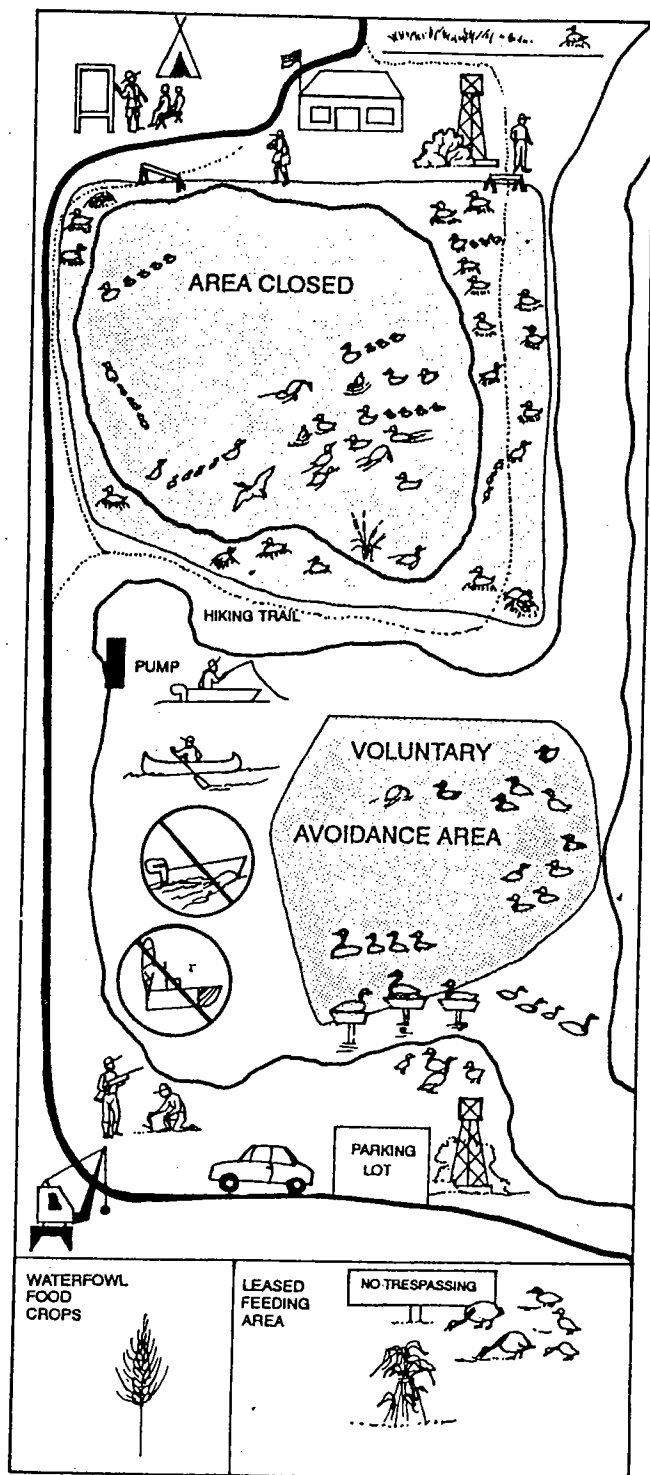
Migratory and wintering waterfowl generally attempt to minimize time spent in flight and maximize time for feeding. Flight requires considerably more energy than any other activity, except egg laying. Human disturbance compels waterfowl to change food habits, feed only at night, lose weight, or desert the feeding area. Waterfowl respond both to loud noises and rapid movements, such as boats powered by outboard motors, and to visible features, such as sailing boats. Large flocks of waterfowl are more susceptible to disturbances than small flocks.

Not all waterfowl species are equally sensitive to disturbance, and some may habituate to certain disturbances. Pink-footed geese were disturbed at a distance of 500 m when more than 20 cars per day used a road in the fall. Traffic of as few as 10 cars per day also had a depressing effect on habitat use by geese. Thus, the surrounding buffer area must exceed 500 m to render habitat acceptable to flocks of pink-footed geese. Some waterfowl, especially diving ducks (notably canvasbacks and lesser scaups) and geese (notably brants and snow geese) are especially vulnerable to disturbance. Density and pattern of disturbance may influence diving ducks more than dabbling ducks in most areas. Repeated disturbances also can deny birds access to preferred feeding habitats. Use by diving ducks of several good feeding areas along the Upper Mississippi River has been limited primarily by boating disturbances that cause 90 percent of the waterfowl to concentrate on 28 percent of the study area during daytime.

Increased Energy Expenditure and Depleted Fat Reserves

In the absence of disturbance, brants in Great Britain spent an average of 1.1% of their time in flight, but disturbance on weekends caused the time spent in flight to increase as much as sevenfold and prevented brants from feeding for up to 11.7% of the time. Detailed studies are few, but observations suggest that the effects of intensive recreation during the fall and winter could be deleterious to migrating and wintering waterfowl.

Researchers who attempted to quantify the harm from disturbances on migrating and wintering waterfowl indicated that frequency of disturbance, number of affected birds, and changes



Spring and summer

- Provide educational information so that the public knows the effects of disturbances on the predominant species.
- Seasonally close or restrict use of auto tour. Users of auto tour must stay in vehicles and stop in only designated parking areas.
- Seasonally close or restrict use of hiking and canoe trails.
- Close or restrict the fishing season during peak nesting period.
- Permit camping in only designated areas.
- Delay hay cutting until most clutches have hatched.
- Prioritize and limit special use permits.
- Limit access until most young waterfowl are three weeks old.

Fall and winter

- Provide educational information so that the public knows the migration and wintering requirements of the predominant species.
- Reroute auto tour to areas of secondary importance to waterfowl.
- Move or screen observation towers.
- Close selected areas of the refuge to public access.
- Create voluntary avoidance areas on federal and state waterways.
- Modify regulations to restrict disturbances from hunting and trapping.
- Move water pumping stations away from bird concentration areas.
- Raise high quality waterfowl foods on refuge land.
- Limit size and horsepower of boats on the lake.
- Disallow use of airboats.
- Obtain short term leases and prevent trespass on private lands that contain waste grain.
- Limit the time that refuge staff spend in high waterfowl use areas.
- Delay construction until non peak seasons.

Fig. 2. Examples of management practices that have reduced the level of human disturbance of waterfowl at a refuge.

Appendix. Common and Scientific Names of Birds Named in Text.

Ducks

Northern shoveler	<i>Anas clypeata</i>
Green-winged teal	<i>Anas crecca</i>
Mallard	<i>Anas platyrhynchos</i>
American black duck	<i>Anas rubripes</i>
Lesser scaup	<i>Aythya affinis</i>
Ring-necked duck	<i>Aythya collaris</i>
Common pochard	<i>Aythya ferina</i>
Tufted duck	<i>Aythya fuligula</i>
Canvasback	<i>Aythya valisineria</i>
White-winged scoter	<i>Melanitta fusca</i>
Common eider	<i>Somateria mollissima</i>

Geese

Pink-footed goose	<i>Anser brachyrhynchus</i>
Snow goose	<i>Anser caerulescens</i>
Brant	<i>Branta bernicla</i>
Canada goose	<i>Branta canadensis</i>
Cackling Canada goose	<i>Branta canadensis minima</i>

Swans

Trumpeter swan	<i>Cygnus buccinator</i>
Tundra swan	<i>Cygnus columbianus</i>

Other

American coot	<i>Fulica americana</i>
Herring gull	<i>Larus argentatus</i>
Great black-backed gull	<i>Larus marinus</i>
Parasitic jaeger	<i>Stercorarius parasiticus</i>

Note: Use of trade names does not imply U.S. Government endorsement of commercial products.



UNITED STATES DEPARTMENT OF THE INTERIOR
FISH AND WILDLIFE SERVICE
Fish and Wildlife Leaflet 13
Washington, D.C. • 1992



EXHIBIT 13

**Hostege, "Truth May Have Come off the Tracks," Oakland
Tribune (August 22, 2004)**

Oakland Tribune

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Article Last Updated: Sunday, August 22, 2004 - 5:43:07 AM PST

Truth may have come off the tracks

Rail Authority efforts leave some legislators questioning if proposed high-speed rail project is 'a fraud'

By Sean Holstege, STAFF WRITER

Lawmakers say California High Speed Rail Authority work is not just sloppy, but misleading.

Sloppiness was evident: a business plan that never mentioned an Oakland track, a \$20 million environmental plan describing a future BART station six months after it opened.

The route into the Bay Area is one of the biggest controversies in the plan for the 700-mile system. The Rail Authority dropped an Altamont Pass route in favor of two South Bay alternatives.

On Feb. 17, Rail Authority Executive Director Mehdi Morshed told the state Senate Transportation Committee that years ago French, German and Japanese rail experts had blessed the plan to run tracks through San Jose rather than over the Altamont Pass.

Morshed couldn't document the claim.

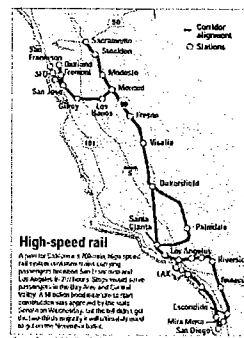
The Train Riders Association of California filed a public records request for all communications with the French, German and Japanese consultants. Morshed provided what he described as a full, unedited set of documents.

"None of the documents we were provided contained any information to support Mr. Morshed's statement," TRAC's Oakland lawyer Stuart Flashman wrote lawmakers.

In a rebuttal letter, Morshed reasserted the documents that led to the Altamont decision "were peer reviewed by German, French and Japanese experts," adding the reviews marked "general agreement."

But a month after Morshed's testimony, Rail Authority Deputy Director Dan Leavitt wrote a Japanese rail expert, asking for "a brief analysis" of the environmental study's conclusion that an Altamont Pass route would be "impractical."

On March 16, Leavitt wrote "the task should take no more than \$10,000."



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On April 23, the Japanese expert duly complied with a three-page report, finding "it is reasonable to eliminate the (Altamont) option." On May 10, came the bill. "Cost for the review task: \$10,000," the Japanese expert wrote.

Morshed said the letters stemmed from a U.S. Environmental Protection Agency request. A Feb. 27 EPA letter copied to Morshed noted concern that the Altamont route "appears to have been prematurely eliminated." Morshed said his Senate appearance was all a misunderstanding.

"The question was 'Why didn't you study it?' and I said we did," Morshed said. He said he only intended to imply that foreign consultants reviewed the whole plan and "did not find fault with our assumptions," including the Altamont.

"How they construe that to be misleading, I don't know," he said.

But lawmakers on the committee had no doubts. "It sounds like Mehdi said he had a study that predated their decision and it informed their decision. Now it looks like they are making it up as they go along," said Sen. Tom McClintock, R-Thousand Oaks, who sat on the committee hearing.

"I am not surprised that phantom studies are being waved before the Legislature," McClintock added. "I think this entire project has been a fraud since the day it was proposed."

"I don't know how you could interpret it any other way," said Brian Perkins, transportation adviser to Sen. Jackie Speier, D-Hillsborough, who also sat on the committee.

More troubling to Perkins, who called Morshed's actions "not intellectually honest," was a document missing in his public records disclosure. Correspondence between Leavitt and the Japanese expert refers to an e-mail dated Feb. 17 -- the same day Morshed testified.

"It's like the missing 17 1/2 minutes," Perkins said, referring to the erased gap in the Oval Office tapes that helped force Richard Nixon from the presidency. "They apparently learned from Mr. Nixon that you burn the evidence."

French consultants, working under a High Speed Rail Authority contract, also had offered an opinion to the authority. They noted an Altamont route "would not be practical," and they peer-reviewed the agency's work in 2000 and found it "sound and reliable."

The Feb. 11 letter was written by engineers at SNCF, parent company to Systra Consulting. Systra is one of three firms picked for the "Project Implementation Team," which stands to make \$10 million a year if California's rail bond passes.

Flashman said Morshed's team "got back what they wanted" from a firm with an incentive to deliver.

Veteran San Diego lawmaker James Mills, who quit the California High Speed Rail Authority board, is not surprised.

"One of the reasons I left is I couldn't get the truth out of Mehdi Morshed. Mehdi is one of those people who has a hidden agenda on everything," Mills said, "He would only tell the truth when it was convenient."

Mills described the entire project as "based on a fallacy" of wildly exaggerated ridership projections. It stems, he said, "from hiring a consulting firm (and) letting them know what you want them to say."

Morshed said Mills is "full of (it)," describing him as someone who used his position on the board to help California's intercity Amtrak service and undermine the bullet train.

But some Central Valley politicians involved in the rail issue side with Mills.

"Their story changes depending on their audience," Kings County Supervisor Alene Taylor said. "They have not been honest with the public. It's how they do business."

Contact Sean Holstege at sholstege@angnewspapers.com.

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Grassland GEA Buffer Zones and Zones of Conflict Map

EXHIBIT 14

Figure 8
Cities and the Grassland Ecological Area
Zones of Conflict 2040

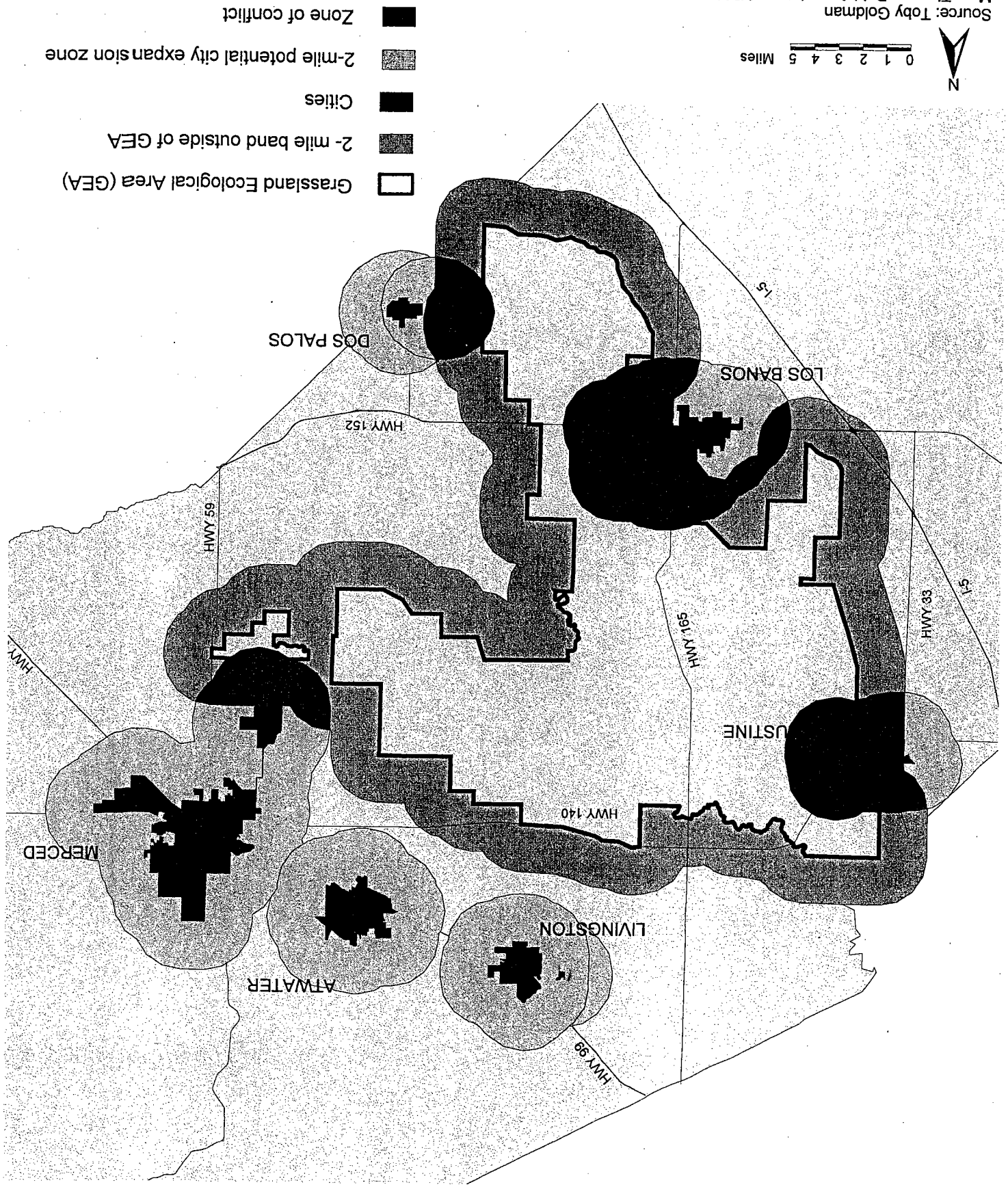


EXHIBIT 15

Dean Kwasi Letter (November 3, 1999)



Grassland Water District

22759 S. Mercy Springs Road
Los Banos, CA 93635
Telephone (209) 826-5188
Fax (209) 826-4984

November 3, 1999

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CITY OF LOS BANOS

Ms. Lynn Azevedo, Planning Director
City of Los Banos
520 J Street
Los Banos, CA 93635

RE: Draft Environmental Impact Report for the Meadowlands II Development and Annexation/Pre-Zoning, East Los Banos Area Plan

Dear Ms. Azevedo:

Thank you for the opportunity to review and comment on the Draft Environmental Impact Report (Draft EIR) for the Meadowlands II Development and Annexation/Pre-Zoning, East Los Banos Area Plan (Project). In general, the Grassland Water District (GWD) supports the Project and we commend the City of Los Banos and its effort to address and protect the sensitive environmental resources east of the Project site. The following comments are intended to assist the City in addressing some of the potential environmental impacts and deficiencies associated with the Draft EIR.

1 Contrary to assertions made in the Draft EIR, the giant garter snake (*Thamnophis gigas*), a state and federally listed threatened species, is not only historically known to occur in the Grasslands but has been documented within the last two years in waterways both north and south of the City of Los Banos. As a result of a cooperative research effort between the Western Ecological Research Center, CA Department of Fish and Game, U.S. Fish and Wildlife Service, and Grassland Water District, eleven giant garter snakes were documented in 1998 and sixteen giant garter snakes were documented in 1999 (Wylie 1998, CA Dept. of Fish and Game, *in draft*, 1999). The majority of these snakes were captured, weighed, measured, and marked with passively induced transponder (PIT) tags for future identification. These snakes were caught in both natural channels and water conveyance canals.

It is well documented that the giant garter snake inhabits waterways, including irrigation and drainage canals, sloughs, and low gradient streams (U.S. Fish and Wildlife Service 1999). The San Luis Canal, a major conveyance canal for wetland water supplies to private wetlands, state wildlife areas, and federal wildlife refuges, borders the Project on the east. This canal contains the necessary habitat components for the giant garter snake including; adequate water during the snake's active season, populations of food organisms, emergent, herbaceous wetland vegetation for escape cover and foraging, and grassy banks and openings in waterside vegetation for basking. In addition, the San Luis

Canal has the potential to function as a movement corridor for the giant garter snake, as noted by the Draft EIR, "This species [giant garter snake] may occasionally move onto the Project site by land or via the San Luis Canal (East Los Banos Area Plan Draft EIR, Page 7-3).

2 Considering the San Luis Canal provides potential habitat for the giant garter snake, the standardized survey protocol developed by the California Department of Fish and Game (see attached) should be used to conduct pre-project surveys of the site. The "reconnaissance level survey" conducted for the Draft EIR, while useful for assessing many of the biological resources of the Project site, falls short of the more rigorous protocol used to survey for giant garter snakes. This protocol includes, among other things, surveying for giant garter snakes from April 15-June 1. The reconnaissance level survey was conducted well outside of this time period (October 9, 1998). As a result, the Draft EIR only provides for a 50-foot buffer along the San Luis Canal which is insufficient to adequately protect the giant garter snake from incidental take. Although the giant garter snake usually remains in close proximity to wetland habitats, giant garter snakes can be found as far away as 250 meters (820 feet) from the edge of marsh habitat (G. Hansen 1988, Wylie et al. 1997). We therefore recommend that the buffer be increased to a distance that ensures the giant garter snake is not adversely impacted by the Project. The U.S. Fish and Wildlife Service recommends a minimum buffer of 200 feet from the banks of giant garter snake aquatic habitat. By increasing the size of the buffer, potential impacts to the San Luis Canal and the giant garter snake can be lessened. The open space buffer could be constructed of native trees, shrubs, and grasses and incorporated into the Project design as an urban, non-vehicular trail system.

Thank you again for the opportunity to provide comments. The GWD is appreciative of the professional and cooperative relationship we maintain with the City and we look forward to providing any additional assistance necessary to ensure that the project proceeds in an environmentally sensitive manner. If you have any questions regarding these comments, feel free to contact me at (209) 826-5188.

Sincerely,



Dean Kwasny
Biologist, Grassland Water District

cc: Richard Menezes
Dave Widell
Dan Cardozo